



**NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 593**

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H593-ATVf-87 [v.5]

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Amends Title [YES]
First Edition

Date _____, 2020

Senator _____

1 moves to amend the bill on page 1, lines 2-15, by rewriting the lines to read:

2
3 "AN ACT TO MAKE CERTAIN MODIFICATIONS TO THE GENERAL STATUTES
4 RELATED TO JUVENILE CRIME PREVENTION COUNCILS, TO CLARIFY THAT A
5 PERSON UNDER 18 IN CUSTODY IS HELD IN A JUVENILE DETENTION FACILITY;
6 TO MAKE CONFORMING CHANGES REGARDING INMATES HELD IN THE
7 STATEWIDE MISDEMEANOR CONFINEMENT PROGRAM AND TRANSFERRED
8 FOR MEDICAL TREATMENT, TO INCREASE THE CRIMINAL COURT APPOINTED
9 COUNSEL FEE, TO INCREASE COURT COSTS TO SUPPORT INDIGENT DEFENSE
10 SERVICES AND THE CRIMINAL JUSTICE EDUCATION AND TRAINING
11 STANDARDS COMMISSION, TO MODIFY DEADLINES RELATED TO THE
12 PAYMENT OF RADIOLOGICAL EMERGENCY PLANNING FEES, AND TO
13 APPROPRIATE FUNDS.

14 The General Assembly of North Carolina enacts:

15 **PART I. JUVENILE CRIME PREVENTION COUNCILS.**

16 **SECTION 1.** G.S. 143B-811 reads as rewritten:

17 "**§ 143B-811. Annual evaluation of ~~community programs and multiple purpose group~~**
18 **~~homes.~~intensive intervention services.**

19 The Department of Public Safety shall conduct an annual evaluation of ~~the community~~
20 ~~programs and of multipurpose group homes.~~ intensive intervention services. Intensive
21 intervention services are evidence-based or research-supported community-based or residential
22 services that are necessary for a juvenile, in order to (i) prevent the juvenile's commitment to a
23 youth development center or detention facility or (ii) facilitate the juvenile's successful return to
24 the community following commitment. In conducting the ~~evaluation of each of these,~~ evaluation,
25 the Department shall consider whether participation in ~~each program~~ intensive intervention
26 services results in a reduction of court involvement among juveniles. The Department shall also
27 determine whether the programs are achieving the goals and objectives of the Juvenile Justice
28 Reform Act, S.L. 1998-202.

29 The Department shall report the results of the evaluation to the Chairs of the Joint Legislative
30 Oversight Committee on Justice and Public Safety and the Chairs of the Senate and House of
31 Representatives Appropriations Subcommittees on Justice and Public Safety by March 1 of each
32 year."



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SECTION 2. G.S. 143B-846 reads as rewritten:

"§ 143B-846. Creation; method of appointment; membership; chair and vice-chair.

(a) As a prerequisite for a county receiving funding for juvenile court services and delinquency prevention programs, the board of commissioners of a county shall appoint a Juvenile Crime Prevention Council. ~~Each County Council is a continuation of the corresponding Council created under G.S. 147-33.61.~~ The County Council shall consist of not more than 26 members and should include, if possible, the following:

- (1) The local school superintendent, or that person's ~~designee~~; designee.
- (2) A chief of police in the ~~county~~; county, or the appointed chief's ~~designee~~.
- (3) The local sheriff, or that person's ~~designee~~; designee.
- (4) The district attorney, or that person's ~~designee~~; designee.
- (5) The chief court counselor, or that person's ~~designee~~; designee.
- (6) The director of the area ~~mental health, developmental disabilities, and substance abuse authority~~, Local Management Entity/Managed Care Organization (LME/MCO) or that person's ~~designee~~; designee.
- (7) The director of the county department of social services, or consolidated human services agency, or that person's ~~designee~~; designee.
- (8) The county manager, or that person's ~~designee~~; designee.
- (9) A substance abuse ~~professional~~; professional.
- (10) A member of the faith ~~community~~; community.
- (11) A county ~~commissioner~~; commissioner.
- (12) Two persons under the age of ~~18 years, one of whom is a member of the State Youth Council~~; 21 years, or one person under the age of 21 years and one member of the public representing the interests of families of at-risk juveniles.
- (13) A juvenile defense ~~attorney~~; attorney.
- (14) The chief district court judge, or a judge designated by the chief district court ~~judge~~; judge.
- (15) A member of the business ~~community~~; community.
- (16) The local health director, or that person's ~~designee~~; designee.
- (17) A representative from the United Way or other nonprofit ~~agency~~; agency.
- (18) A representative of a local parks and recreation ~~program~~; and program.
- (19) Up to seven members of the public to be appointed by the board of commissioners of a county.

The board of commissioners of a county shall modify the County Council's membership as necessary to ensure that the members reflect the racial and socioeconomic diversity of the community and to minimize potential conflicts of interest by members.

(b) Two or more counties may establish a multicounty Juvenile Crime Prevention Council under subsection (a) of this section. The membership shall be representative of each participating county.

(c) The members of the County Council shall elect annually the chair and vice-chair."

SECTION 3. G.S. 143B-849 reads as rewritten:

"§ 143B-849. Meetings; quorum.

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1 County Councils shall meet at least ~~bimonthly~~, six times per year, or more often if a meeting
2 is called by the chair. ~~AA majority~~ majority of members constitutes a quorum."

3 **SECTION 4.** G.S. 143B-851 reads as rewritten:

4 **"§ 143B-851. Powers and duties.**

5 (a) Each County Council shall review ~~annually~~ biennially the needs of juveniles in the
6 county who are at risk of delinquency or who have been adjudicated undisciplined or delinquent
7 and the resources available to address those needs. In particular, each County Council shall assess
8 the needs of juveniles in the county who are at risk or who have been associated with gangs or
9 gang activity, and the local resources that are established to address those needs. The Council
10 shall develop and advertise a request for proposal process and submit a written plan of action for
11 the expenditure of juvenile sanction and prevention funds to the board of county commissioners
12 for its approval. Upon the county's authorization, the plan shall be submitted to the Section for
13 final approval and subsequent implementation.

14 ...

15 (d) The Councils may examine the benefits of joint program development between
16 counties ~~within the same and judicial district districts.~~

17 **SECTION 5.** G.S. 143B-1104 is recodified as G.S. 143B-853 and reads as rewritten:

18 **"§ 143B-853. Funding for programs.**

19 (a) Annually, the Division of ~~Administration~~ Adult Correction and Juvenile Justice shall
20 develop and implement a funding mechanism for programs that meet the standards developed
21 under ~~Subpart F of Part 3 of Article 13 of Chapter 143B of the General Statutes.~~ this Subpart.
22 The Division shall ensure that the guidelines for the State and local partnership's funding process
23 include the following requirements:

- 24 (1) Fund effective programs. – The Division shall fund programs that it
25 determines to be effective in preventing delinquency and recidivism.
26 Programs that have proven to be ineffective shall not be funded.
- 27 (2) Use a formula for the distribution of funds. – A funding formula shall be
28 developed that ensures that even the smallest counties will be able to provide
29 the basic prevention and alternative services to juveniles in their communities.
- 30 (3) Allow and encourage local flexibility. – A vital component of the State and
31 local partnership established by this section is local flexibility to determine
32 how best to allocate prevention and alternative funds.
- 33 (4) Combine resources. – Counties shall be allowed and encouraged to combine
34 resources and services.
- 35 (5) Allow for a two-year funding cycle. – In the discretion of the Division, awards
36 may be provided in amounts that fund two years of services for programs that
37 meet the requirements of this section and have been awarded funds in a prior
38 funding cycle.

39 (b) The Division shall adopt rules to implement this section. The Division shall provide
40 technical assistance to County Councils and shall require them to evaluate all State-funded
41 programs and services on an ongoing and regular basis.

42 (c) The Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice
43 of the Department of Public Safety shall report to the Senate and House of Representatives

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1 Appropriations Subcommittees on Justice and Public Safety no later than March 1, 2006, and
2 annually thereafter, on the results of ~~the alternatives to commitment demonstration programs~~
3 ~~funded by Section 16.7 of S.L. 2004-124. The 2007 report and all annual reports thereafter shall~~
4 ~~also include projects funded by Section 16.11 of S.L. 2005-276 for the 2005-2006 fiscal year.~~
5 intensive intervention services. Intensive intervention services are evidence-based or
6 research-supported community-based or residential services that are necessary for a juvenile, in
7 order to (i) prevent the juvenile's commitment to a youth development center or detention facility
8 or (ii) facilitate the juvenile's successful return to the community following commitment.
9 Specifically, the report shall provide a detailed description of each ~~of the demonstration~~
10 ~~programs, intensive intervention service,~~ including the numbers of juveniles served, their
11 adjudication status at the time of service, the ~~services/treatments—services and treatments~~
12 provided, the length of service, the total cost per juvenile, and the six- and 12-month recidivism
13 rates for the juveniles after the termination of program services."

14 **SECTION 6.(a)** Of the funds appropriated to the Department of Public Safety,
15 Division of Adult Correction and Juvenile Justice (Division), for the 2019-2021 fiscal biennium
16 that are provided to Juvenile Crime Prevention Councils (JCPC) to be used for alternatives to
17 commitment and Level 2 dispositional alternatives, the requirements of this section shall apply
18 for the 2019-2021 fiscal biennium.

19 **SECTION 6.(b)** The funds described in subsection (a) of this section shall be known
20 as funds for intensive intervention services and shall be used for the purpose of providing
21 intensive intervention services for juveniles of any disposition level, based on the needs of the
22 juvenile, as ordered pursuant to G.S. 7B-2506. Intensive intervention services are evidence-based
23 or research-supported community-based or residential services that are necessary for a juvenile,
24 in order to (i) prevent the juvenile's commitment to a youth development center or detention
25 facility or (ii) facilitate the juvenile's successful return to the community following commitment.
26 The Division of Adult Correction and Juvenile Justice shall conduct an open-bid, competitive
27 award process to determine the allocation of JCPC funds among counties. The Division shall
28 identify and select the most effective evidence-based or research-supported methods of meeting
29 the needs of juveniles served. The Division shall, in its discretion, determine the number and
30 amount of awards provided, but in exercising its discretion, shall give consideration to the
31 following:

- 32 (1) The commitment rates or frequency with which the court orders commitment
- 33 as a disposition for the juveniles served.
- 34 (2) The disposition levels and criminogenic needs of the juveniles served.
- 35 (3) Programs that target juveniles in rural areas.
- 36 (4) Diverse geographical representation across the State.
- 37 (5) Programs that utilize collaboration among counties.

38 **SECTION 7.** Sections 1, 2, 3, and 4 of this act become effective December 1, 2019.
39 Sections 5, 6, and 7 of this act becomes effective July 1, 2019.

40 **PART II. JUVENILE DETENTION**

41 **SECTION 8.(a)** G.S. 7A-109.3 reads as rewritten:
42 **"§ 7A-109.3. Delivery of commitment order.**

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1 (a) Whenever the district court sentences a person to imprisonment and commitment to
2 the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public
3 Safety pursuant to G.S. 15A-1352, the clerk of superior court shall furnish the sheriff with the
4 signed order of commitment within 48 hours of the issuance of the sentence.

5 (a1) If the district court sentences a person under the age of 18 to imprisonment and
6 commitment, the clerk of superior court shall furnish the detention facility approved by the
7 Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice with the signed
8 order of commitment within 48 hours of the issuance of the sentence.

9 (b) Whenever the superior court sentences a person to imprisonment and commitment to
10 the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public
11 Safety pursuant to G.S. 15A-1352, the clerk of superior court shall furnish the sheriff with the
12 signed order of commitment within 72 hours of the issuance of the sentence.

13 (b1) If the superior court sentences a person under the age of 18 to imprisonment and
14 commitment, the clerk of superior court shall furnish the detention facility approved by the
15 Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice with the signed
16 order of commitment within 48 hours of the issuance of the sentence."

17 **SECTION 8.(b)** G.S. 15-6 reads as rewritten:

18 **"§ 15-6. Imprisonment to be in county jail.**

19 No person over the age of 18 shall be imprisoned except in the common jail of the county,
20 unless otherwise provided by law: Provided, that whenever the sheriff of any county shall be
21 imprisoned, he may be imprisoned in the jail of any adjoining county. If the person being
22 imprisoned is under the age of 18, that person shall be imprisoned in a detention facility approved
23 by the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice, to
24 provide secure confinement and care for juveniles, or to a holdover facility as defined in
25 G.S. 7B-1501(11)."

26 **SECTION 8.(c)** G.S. 15A-521 reads as rewritten:

27 **"§ 15A-521. Commitment to detention facility pending trial.**

28 (a) Commitment. – Every person charged with a crime and held in custody who has not
29 been released pursuant to Article 26 of this Chapter, Bail, must be committed by a written order
30 of the judicial official who conducted the initial appearance as provided in Article 24 to an
31 appropriate detention facility as provided in this section. If the person being committed by written
32 order is under the age of 18, that person must be committed to a detention facility approved by
33 the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice, to provide
34 secure confinement and care for juveniles, or to a holdover facility or to a holdover facility as
35 defined in G.S. 7B-1501(11).

36 (b) Order of Commitment; Modification. – The order of commitment must:

- 37 (1) State the name of the person charged or identify him if his name cannot be
38 ascertained.
39 (2) Specify the offense charged.
40 (3) Designate the place of confinement.
41 (4) If release is authorized pursuant to Article 26 of this Chapter, Bail, state the
42 conditions of release. If a separate order stating the conditions has been

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- 1 entered, the commitment may make reference to that order, a copy of which
2 must be attached to the commitment.
- 3 (5) Subject to the provisions of subdivision (4), direct, as appropriate, that the
4 defendant be:
- 5 a. Produced before a district court judge pursuant to Article 29 of this
6 Chapter, First Appearance before District Court Judge,
7 b. Produced before a district court judge for a probable cause hearing as
8 provided in Article 30 of this Chapter, Probable-Cause Hearing,
9 c. Produced for trial in the district or superior court, or
10 d. Held for other specified purposes.
- 11 (6) State the name and office of the judicial official making the order and be
12 signed by ~~him~~ that judicial official.

13 The order of commitment may be modified or continued by the same or another judicial official
14 by supplemental order.

15 (c) Copies and Use of Order, Receipt of Prisoner. –

- 16 (1) The order of commitment must be delivered to a law-enforcement officer, who
17 must deliver the order and the prisoner to the detention facility named therein.
- 18 (2) The jailer or personnel of the Juvenile Justice Section, must receive the
19 prisoner and the order of commitment, and note on the order of commitment
20 the time and date of receipt. As used in this subdivision, "jailer" includes any
21 person having control of a detention ~~facility~~ facility and "personnel of the
22 Juvenile Justice Section" includes personnel approved by the Juvenile Justice
23 Section.
- 24 (3) Upon releasing the prisoner pursuant to the terms of the order, or upon
25 delivering the prisoner to the court, the jailer must note the time and date on
26 the order and return it to the clerk. Personnel of the Juvenile Justice Section
27 or personnel approved by the Juvenile Justice Section, shall transport the
28 person under the age of 18 from the juvenile detention facility or holdover
29 facility, to court and shall transfer the person back to the juvenile detention
30 facility, or holdover facility.
- 31 (4) Repealed by Session Laws 1975, 2nd Sess., c. 983, s. 142.

32 (d) Commitment of Witnesses. – If a court directs detention of a material witness
33 pursuant to G.S. 15A-803, the court must enter an order in the manner provided in this section,
34 except that the order must:

- 35 (1) State the reason for the detention in lieu of the description of the offense
36 charged, and
37 (2) Direct that the witness be brought before the appropriate court when his
38 testimony is required."

39 **SECTION 8.(d)** G.S. 15A-1301 reads as rewritten:

40 **"§ 15A-1301. Order of commitment to imprisonment when not otherwise specified.**

41 When a judicial official orders that a defendant be imprisoned he must issue an appropriate
42 written commitment order. When the commitment is to a sentence of imprisonment, the
43 commitment must include the identification and class of the offense or offenses for which the

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1 defendant was convicted and, if the sentences are consecutive, the maximum sentence allowed
2 by law upon conviction of each offense for the punishment range used to impose the sentence for
3 the class of offense and prior record or conviction level, and, if the sentences are concurrent or
4 consolidated, the longest of the maximum sentences allowed by law for the classes of offense
5 and prior record or conviction levels upon conviction of any of the offenses. If the person
6 sentenced to imprisonment is under the age of 18, the person must be committed to a detention
7 facility approved by the Juvenile Justice Section of the Division of Adult Correction and Juvenile
8 Justice, to provide secure confinement and care for juveniles. If the person is under the age of
9 18, the person may be temporarily confined in a holdover facility as defined in G.S. 7B-1501(11),
10 until the person can be transferred to a juvenile detention facility. Personnel of the Juvenile
11 Justice Section or personnel approved by the Juvenile Justice Section, shall transport the person
12 to the juvenile detention facility or the holdover facility."

13 **SECTION 8.(e)** G.S. 15A-1343(a1) reads as rewritten:

14 **"§ 15A-1343. Conditions of probation.**

15 (a1) Community and Intermediate Probation Conditions. – In addition to any conditions a
16 court may be authorized to impose pursuant to G.S. 15A-1343(b1), the court may include any
17 one or more of the following conditions as part of a community or intermediate punishment:

- 18 (1) House arrest with electronic monitoring.
- 19 (2) Perform community service and pay the fee prescribed by law for this
20 supervision.
- 21 (3) Submission to a period or periods of confinement in a local confinement
22 facility for a total of no more than six days per month during any three separate
23 months during the period of probation. The six days per month confinement
24 provided for in this subdivision may only be imposed as two-day or three-day
25 consecutive periods. When a defendant is on probation for multiple
26 judgments, confinement periods imposed under this subdivision shall run
27 concurrently and may total no more than six days per month. If the person
28 being ordered to a period or periods of confinement is under the age of 18,
29 that person must be confined in a detention facility approved by the Juvenile
30 Justice Section of the Division of Adult Correction and Juvenile Justice, to
31 provide secure confinement and care for juveniles, or to a holdover facility as
32 defined in G.S. 7B-1501(11).
- 33 (4) Substance abuse assessment, monitoring, or treatment.
- 34 (4a) Abstain from alcohol consumption and submit to continuous alcohol
35 monitoring when alcohol dependency or chronic abuse has been identified by
36 a substance abuse assessment.
- 37 (5) Participation in an educational or vocational skills development program,
38 including an evidence-based program.
- 39 (6) Submission to satellite-based monitoring, pursuant to Part 5 of Article 27A of
40 Chapter 14 of the General Statutes, if the defendant is described by
41 G.S. 14-208.40(a)(2)."

42 **SECTION 8.(f)** G.S. 15A-1343.2(e) reads as rewritten:

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1 "(e) Delegation to Probation Officer in Community Punishment. – Unless the presiding
2 judge specifically finds in the judgment of the court that delegation is not appropriate, the Section
3 of Community Corrections of the Division of Adult Correction and Juvenile Justice of the
4 Department of Public Safety may require an offender sentenced to community punishment to do
5 any of the following:

- 6 (1) Perform up to 20 hours of community service, and pay the fee prescribed by
7 law for this supervision.
- 8 (2) Report to the offender's probation officer on a frequency to be determined by
9 the officer.
- 10 (3) Submit to substance abuse assessment, monitoring or treatment.
- 11 (4) Submit to house arrest with electronic monitoring.
- 12 (5) Submit to a period or periods of confinement in a local confinement facility
13 for a total of no more than six days per month during any three separate
14 months during the period of probation. The six days per month confinement
15 provided for in this subdivision may only be imposed as two-day or three-day
16 consecutive periods. When a defendant is on probation for multiple
17 judgments, confinement periods imposed under this subdivision shall run
18 concurrently and may total no more than six days per month. If the person
19 being ordered to a period or periods of confinement is under the age of 18,
20 that person must be confined in a detention facility approved by the Juvenile
21 Justice Section of the Division of Adult Correction and Juvenile Justice, to
22 provide secure confinement and care for juveniles, or to a holdover facility as
23 defined in G.S. 7B-1501(11).
- 24 (6) Submit to a curfew which requires the offender to remain in a specified place
25 for a specified period each day and wear a device that permits the offender's
26 compliance with the condition to be monitored electronically.
- 27 (7) Participate in an educational or vocational skills development program,
28 including an evidence-based program.

29 If the Section imposes any of the above requirements, then it may subsequently reduce or remove
30 those same requirements.

31 The probation officer may exercise authority delegated to him or her by the court pursuant to
32 subsection (e) of this section after administrative review and approval by a Chief Probation
33 Officer. The offender may file a motion with the court to review the action taken by the probation
34 officer. The offender shall be given notice of the right to seek such a court review. However, the
35 offender shall have no right of review if he or she has signed a written waiver of rights as required
36 by this subsection. The Section may exercise any authority delegated to it under this subsection
37 only if it first determines that the offender has failed to comply with one or more of the conditions
38 of probation imposed by the court or the offender is determined to be high risk based on the
39 results of the risk assessment in G.S. 15A-1343.2, except that the condition at subdivision (5) of
40 this subsection may not be imposed unless the Section determines that the offender failed to
41 comply with one or more of the conditions imposed by the court. Nothing in this section shall be
42 construed to limit the availability of the procedures authorized under G.S. 15A-1345.

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1 The Division shall adopt guidelines and procedures to implement the requirements of this
2 section, which shall include a supervisor's approval prior to exercise of the delegation of authority
3 authorized by this section. Prior to imposing confinement pursuant to subdivision (5) of this
4 subsection, the probationer must first be presented with a violation report, with the alleged
5 violations noted and advised of the right (i) to a hearing before the court on the alleged violation,
6 with the right to present relevant oral and written evidence; (ii) to have counsel at the hearing,
7 and that one will be appointed if the probationer is indigent; (iii) to request witnesses who have
8 relevant information concerning the alleged violations; and (iv) to examine any witnesses or
9 evidence. The probationer may be confined for the period designated on the violation report upon
10 the execution of a waiver of rights signed by the probationer and by two officers acting as
11 witnesses. Those two witnesses shall be the probation officer and another officer to be designated
12 by the Chief of the Community Corrections Section in written Division policy."

13 **SECTION 8.(g)** G.S. 15A-1343.2(f) reads as rewritten:

14 "(f) Delegation to Probation Officer in Intermediate Punishments. – Unless the presiding
15 judge specifically finds in the judgment of the court that delegation is not appropriate, the Section
16 of Community Corrections of the Division of Adult Correction and Juvenile Justice of the
17 Department of Public Safety may require an offender sentenced to intermediate punishment to
18 do any of the following:

- 19 (1) Perform up to 50 hours of community service, and pay the fee prescribed by
20 law for this supervision.
- 21 (2) Submit to a curfew which requires the offender to remain in a specified place
22 for a specified period each day and wear a device that permits the offender's
23 compliance with the condition to be monitored electronically.
- 24 (3) Submit to substance abuse assessment, monitoring or treatment, including
25 continuous alcohol monitoring when abstinence from alcohol consumption
26 has been specified as a term of probation.
- 27 (4) Participate in an educational or vocational skills development program,
28 including an evidence-based program.
- 29 (5) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A of
30 Chapter 14 of the General Statutes, if the defendant is described by
31 G.S. 14-208.40(a)(2).
- 32 (6) Submit to a period or periods of confinement in a local confinement facility
33 for a total of no more than six days per month during any three separate
34 months during the period of probation. The six days per month confinement
35 provided for in this subdivision may only be imposed as two-day or three-day
36 consecutive periods. When a defendant is on probation for multiple
37 judgments, confinement periods imposed under this subdivision shall run
38 concurrently and may total no more than six days per month. If the person
39 being ordered to a period or periods of confinement is under the age of 18,
40 that person must be confined in a detention facility approved by the Juvenile
41 Justice Section of the Division of Adult Correction and Juvenile Justice, to
42 provide secure confinement and care for juveniles, or to a holdover facility as
43 defined in G.S. 7B-1501(11).

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(7) Submit to house arrest with electronic monitoring.

(8) Report to the offender's probation officer on a frequency to be determined by the officer.

If the Section imposes any of the above requirements, then it may subsequently reduce or remove those same requirements.

The probation officer may exercise authority delegated to him or her by the court pursuant to subsection (f) of this section after administrative review and approval by a Chief Probation Officer. The offender may file a motion with the court to review the action taken by the probation officer. The offender shall be given notice of the right to seek such a court review. However, the offender shall have no right of review if he or she has signed a written waiver of rights as required by this subsection. The Section may exercise any authority delegated to it under this subsection only if it first determines that the offender has failed to comply with one or more of the conditions of probation imposed by the court or the offender is determined to be high risk based on the results of the risk assessment in G.S. 15A-1343.2, except that the condition at subdivision (6) of this subsection may not be imposed unless the Section determines that the offender failed to comply with one or more of the conditions imposed by the court. Nothing in this section shall be construed to limit the availability of the procedures authorized under G.S. 15A-1345.

The Division shall adopt guidelines and procedures to implement the requirements of this section, which shall include a supervisor's approval prior to exercise of the delegation of authority authorized by this section. Prior to imposing confinement pursuant to subdivision (6) of this subsection, the probationer must first be presented with a violation report, with the alleged violations noted and advised of the right (i) to a hearing before the court on the alleged violation, with the right to present relevant oral and written evidence; (ii) to have counsel at the hearing, and that one will be appointed if the probationer is indigent; (iii) to request witnesses who have relevant information concerning the alleged violations; and (iv) to examine any witnesses or evidence. The probationer may be confined for the period designated on the violation report upon the execution of a waiver of rights signed by the probationer and by two officers acting as witnesses. Those two witnesses shall be the probation officer and another officer to be designated by the Chief of the Community Corrections Section in written Division policy."

SECTION 8.(h) G.S. 15A-1344(d2) reads as rewritten:

"(d2) Confinement in Response to Violation. – When a defendant under supervision for a felony conviction has violated a condition of probation other than G.S. 15A-1343(b)(1) or G.S. 15A-1343(b)(3a), the court may impose a period of confinement of 90 consecutive days to be served in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. The court may not revoke probation unless the defendant has previously received a total of two periods of confinement under this subsection. A defendant may receive only two periods of confinement under this subsection. The 90-day term of confinement ordered under this subsection for a felony shall not be reduced by credit for time already served in the case. Any such credit shall instead be applied to the suspended sentence. However, if the time remaining on the maximum imposed sentence on a defendant under supervision for a felony conviction is 90 days or less, then the term of confinement is for the remaining period of the sentence. Confinement under this section shall be credited pursuant to G.S. 15-196.1. If the person being ordered to a period of confinement is under the age of 18, that person must be

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1 confined in a detention facility approved by the Juvenile Justice Section of the Division of Adult
2 Correction and Juvenile Justice, to provide secure confinement and care for juveniles, or to a
3 holdover facility as defined in G.S. 7B-1501(11).

4 When a defendant under supervision for a misdemeanor conviction sentenced pursuant to
5 Article 81B of Chapter 15A of the General Statutes has violated a condition of probation other
6 than G.S. 15A-1343(b)(1) or G.S. 15A-1343(b)(3a), the court may impose a period of
7 confinement pursuant to G.S. 15A-1343(a1)(3). If the person being ordered to a period of
8 confinement is under the age of 18, that person must be confined in a detention facility approved
9 by the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice, to
10 provide secure confinement and care for juveniles, or to a holdover facility as defined in
11 G.S. 7B-1501(11). The court may not revoke probation unless the defendant has previously
12 received at least two periods of confinement for violating a condition of probation other than
13 G.S. 15A-1343(b)(1) or G.S. 15A-1343(b)(3a). Those periods of confinement may have been
14 imposed pursuant to G.S. 15A-1343(a1)(3), 15A-1343.2(e)(5), or 15A-1343.2(f)(6). The second
15 period of confinement must have been imposed for a violation that occurred after the defendant
16 served the first period of confinement. Confinement under this section shall be credited pursuant
17 to G.S. 15-196.1.

18 When a defendant under supervision for a misdemeanor conviction not sentenced pursuant
19 to Article 81B of Chapter 15A of the General Statutes has violated a condition of probation other
20 than G.S. 15A-1343(b)(1) or G.S. 15A-1343(b)(3a), the court may impose a period of
21 confinement of up to 90 consecutive days to be served where the defendant would have served
22 an active sentence. The court may not revoke probation unless the defendant has previously
23 received a total of two periods of confinement under this subsection. A defendant may receive
24 only two periods of confinement under this subsection. Confinement under this section shall be
25 credited pursuant to G.S. 15-196.1.

26 The period of confinement imposed under this subsection on a defendant who is on probation
27 for multiple offenses shall run concurrently on all cases related to the violation. Confinement
28 shall be immediate unless otherwise specified by the court."

29 **SECTION 8.(i)** G.S. 15A-1344(e) reads as rewritten:

30 "(e) Special Probation in Response to Violation. – When a defendant has violated a
31 condition of probation, the court may modify the probation to place the defendant on special
32 probation as provided in this subsection. In placing the defendant on special probation, the court
33 may continue or modify the conditions of probation and in addition require that the defendant
34 submit to a period or periods of imprisonment, either continuous or noncontinuous, at whatever
35 time or intervals within the period of probation the court determines. In addition to any other
36 conditions of probation which the court may impose, the court shall impose, when imposing a
37 period or periods of imprisonment as a condition of special probation, the condition that the
38 defendant obey the rules and regulations of the Division of Adult Correction and Juvenile Justice
39 of the Department of Public Safety governing conduct of inmates, and this condition shall apply
40 to the defendant whether or not the court imposes it as a part of the written order. If imprisonment
41 is for continuous periods, the confinement may be in either the custody of the Division of Adult
42 Correction and Juvenile Justice of the Department of Public Safety or a local confinement
43 facility. Noncontinuous periods of imprisonment under special probation may only be served in

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1 a designated local confinement or treatment facility. If the person being ordered to a period or
2 periods of imprisonment, either continuous or noncontinuous, is under the age of 18, that person
3 must be imprisoned in a detention facility approved by the Juvenile Justice Section of the
4 Division of Adult Correction and Juvenile Justice, to provide secure confinement and care for
5 juveniles, or to a holdover facility as defined in G.S. 7B-1501(11).

6 Except for probationary sentences for impaired driving under G.S. 20-138.1, the total of all
7 periods of confinement imposed as an incident of special probation, but not including an activated
8 suspended sentence, may not exceed one-fourth the maximum sentence of imprisonment
9 imposed for the offense. For probationary sentences for impaired driving under G.S. 20-138.1,
10 the total of all periods of confinement imposed as an incident of special probation, but not
11 including an activated suspended sentence, shall not exceed one-fourth the maximum penalty
12 allowed by law. No confinement other than an activated suspended sentence may be required
13 beyond the period of probation or beyond two years of the time the special probation is imposed,
14 whichever comes first."

15 **SECTION 8.(j)** G.S. 15A-1351(a) reads as rewritten:

16 "(a) The judge may sentence to special probation a defendant convicted of a criminal
17 offense other than impaired driving under G.S. 20-138.1, if based on the defendant's prior record
18 or conviction level as found pursuant to Article 81B of this Chapter, an intermediate punishment
19 is authorized for the class of offense of which the defendant has been convicted. A defendant
20 convicted of impaired driving under G.S. 20-138.1 may also be sentenced to special probation.
21 Under a sentence of special probation, the court may suspend the term of imprisonment and place
22 the defendant on probation as provided in Article 82, Probation, and in addition require that the
23 defendant submit to a period or periods of imprisonment in the custody of the Division of Adult
24 Correction and Juvenile Justice of the Department of Public Safety or a designated local
25 confinement or treatment facility at whatever time or intervals within the period of probation,
26 consecutive or nonconsecutive, the court determines, as provided in this subsection. For
27 probationary sentences for misdemeanors, including impaired driving under G.S. 20-138.1, all
28 imprisonment under this subsection shall be in a designated local confinement or treatment
29 facility. If the person being ordered to a period or periods of imprisonment is under the age of
30 18, that person must be imprisoned in a detention facility approved by the Juvenile Justice Section
31 of the Division of Adult Correction and Juvenile Justice, to provide secure confinement and care
32 for juveniles, or to a holdover facility as defined in G.S. 7B-1501(11). In addition to any other
33 conditions of probation which the court may impose, the court shall impose, when imposing a
34 period or periods of imprisonment as a condition of special probation, the condition that the
35 defendant obey the Rules and Regulations of the Division of Adult Correction and Juvenile
36 Justice of the Department of Public Safety governing conduct of inmates, and this condition shall
37 apply to the defendant whether or not the court imposes it as a part of the written order. Except
38 for probationary sentences for misdemeanors, including impaired driving under G.S. 20-138.1,
39 if imprisonment is for continuous periods, the confinement may be in the custody of either the
40 Division of Adult Correction and Juvenile Justice of the Department of Public Safety or a local
41 confinement facility. Noncontinuous periods of imprisonment under special probation may only
42 be served in a designated local confinement or treatment facility. If the person being ordered
43 continuous or noncontinuous periods of imprisonment is under the age of 18, that person must

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1 be imprisoned in a detention facility approved by the Juvenile Justice Section of the Division of
2 Adult Correction and Juvenile Justice, to provide secure confinement and care for juveniles, or
3 to a holdover facility as defined in G.S. 7B-1501(11). Except for probationary sentences of
4 impaired driving under G.S. 20-138.1, the total of all periods of confinement imposed as an
5 incident of special probation, but not including an activated suspended sentence, may not exceed
6 one-fourth the maximum sentence of imprisonment imposed for the offense, and no confinement
7 other than an activated suspended sentence may be required beyond two years of conviction. For
8 probationary sentences for impaired driving under G.S. 20-138.1, the total of all periods of
9 confinement imposed as an incident of special probation, but not including an activated
10 suspended sentence, shall not exceed one-fourth the maximum penalty allowed by law. In
11 imposing a sentence of special probation, the judge may credit any time spent committed or
12 confined, as a result of the charge, to either the suspended sentence or to the imprisonment
13 required for special probation. The original period of probation, including the period of
14 imprisonment required for special probation, shall be as specified in G.S. 15A-1343.2(d), but
15 may not exceed a maximum of five years, except as provided by G.S. 15A-1342(a). The court
16 may revoke, modify, or terminate special probation as otherwise provided for probationary
17 sentences."

18 **SECTION 8.(k)** G.S. 15A-1352 reads as rewritten:

19 **"§ 15A-1352. Commitment to Division of Adult Correction and Juvenile Justice of the**
20 **Department of Public Safety or local confinement facility.**

21 (a) Except as provided in subsection (f) of this section, a person sentenced to
22 imprisonment for a misdemeanor under this Article or for nonpayment of a fine for conviction
23 of a misdemeanor under Article 84 of this Chapter shall be committed for the term designated by
24 the court to the Statewide Misdemeanant Confinement Program as provided in G.S. 148-32.1 or,
25 if the period is for 90 days or less, to a local confinement facility, except as provided for in
26 G.S. 148-32.1(b).

27 If a person is sentenced to imprisonment for a misdemeanor under this Article or for
28 nonpayment of a fine under Article 84 of this Chapter, the sentencing judge may make a finding
29 of fact as to whether the person would be suitable for placement in a county satellite jail/work
30 release unit operated pursuant to G.S. 153A-230.3. If the sentencing judge makes a finding of
31 fact that the person would be suitable for placement in a county satellite jail/work release unit
32 and the person meets the requirements listed in G.S. 153A-230.3(a)(1), then the custodian of the
33 local confinement facility may transfer the misdemeanant to a county satellite jail/work release
34 unit.

35 If the person sentenced to imprisonment is under the age of 18, the person must be committed
36 to a detention facility approved by the Juvenile Justice Section of the Division of Adult
37 Correction and Juvenile Justice, to provide secure confinement and care for juveniles. Personnel
38 of the Juvenile Justice Section of the Division or personnel approved by the Juvenile Justice
39 Section, shall transport the person to the detention facility.

40 (b) A person sentenced to imprisonment for a felony under this Article or for nonpayment
41 of a fine for conviction of a felony under Article 84 of this Chapter shall be committed for the
42 term designated by the court to the custody of the Division of Adult Correction and Juvenile
43 Justice of the Department of Public Safety.

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1 (c) Repealed by Session Laws 2014-100, s. 16C.1(b), effective October 1, 2014. See
2 Editor's note for applicability.

3 (d) Notwithstanding any other provision of law, when the sentencing court, with the
4 consent of the person sentenced, orders that a person convicted of a misdemeanor be granted
5 work release, the court may commit the person to a specific prison facility or local confinement
6 facility or satellite jail/work release unit within the county of the sentencing court in order to
7 facilitate the work release arrangement. When appropriate to facilitate the work release
8 arrangement, the sentencing court may, with the consent of the sheriff or board of commissioners,
9 commit the person to a specific local confinement facility or satellite jail/work release unit in
10 another county.

11 (e) Repealed by Session Laws 2014-100, s. 16C.1(b), effective October 1, 2014. See
12 Editor's note for applicability.

13 (f) A person sentenced to imprisonment of any duration for impaired driving under
14 G.S. 20-138.1, other than imprisonment required as a condition of special probation under
15 G.S. 15A-1351(a) or G.S. 15A-1344(e), shall be committed to the Statewide Misdemeanant
16 Confinement Program established under G.S. 148-32.1.

17 If the person sentenced to imprisonment is under the age of 18, the person must be committed
18 to a detention facility approved by the Juvenile Justice Section of the Division of Adult
19 Correction and Juvenile Justice, to provide secure confinement and care for juveniles. Personnel
20 of the Juvenile Justice Section or personnel approved by the Juvenile Justice Section, shall
21 transport the person to the detention facility."

22 **SECTION 8.(l)** G.S. 148-13 reads as rewritten:

23 **"§ 148-13. Regulations as to custody grades, privileges, gain time credit, etc.**

24 (a) The Secretary of Public Safety may issue regulations regarding the grades of custody
25 in which State prisoners are kept, the privileges and restrictions applicable to each custody grade,
26 and the amount of cash, clothing, etc., to be awarded to State prisoners after their discharge or
27 parole. The amount of cash awarded to a prisoner upon discharge or parole after being
28 incarcerated for two years or longer shall be at least forty-five dollars (\$45.00).

29 (a1) The Secretary of Public Safety shall adopt rules to specify the rates at, and
30 circumstances under, which earned time authorized by G.S. 15A-1340.13(d) and
31 G.S. 15A-1340.20(d) may be earned or forfeited by persons serving activated sentences of
32 imprisonment for felony or misdemeanor convictions. Such rules shall include any person
33 serving an activated sentence of imprisonment who is confined in a detention facility approved
34 by the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice.

35 (b) With respect to prisoners who are serving sentences for impaired driving offenses
36 under G.S. 20-138.1, the Secretary of Public Safety may, in his discretion, issue regulations
37 regarding deductions of time from the terms of such prisoners for good behavior, meritorious
38 conduct, work or study, participation in rehabilitation programs, and the like.

39 (c), (d) Repealed by Session Laws 1993, c. 538, s. 32, effective January 1, 1995.

40 (e) The Secretary's regulations concerning earned time and good time credits authorized
41 by this section shall be distributed to and followed by local jail administrators and by personnel
42 of the Juvenile Justice Section or personnel approved by the Juvenile Justice Section with regard

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1 to sentenced jail ~~prisoners~~-prisoners and juveniles housed in a detention facility approved by the
2 Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice.

3 (f) The provisions of this section do not apply to persons sentenced to a term of special
4 probation under G.S. 15A-1344(e) or G.S. 15A-1351(a)."

5 **SECTION 8.(m)** G.S. 148-32.1(e) reads as rewritten:

6 "(e) Upon entry of a prisoner serving a sentence of imprisonment for impaired driving
7 under G.S. 20-138.1 into a local confinement facility or to a detention facility approved by the
8 Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice pursuant to this
9 section, the custodian of the local confinement facility or detention facility shall forward to the
10 Post-Release Supervision and Parole Commission information pertaining to the prisoner so as to
11 make him eligible for parole consideration pursuant to G.S. 15A-1371. Such information shall
12 include date of incarceration, jail credit, and such other information as may be required by the
13 Post-Release Supervision and Parole Commission. The Post-Release Supervision and Parole
14 Commission shall approve a form upon which the custodian shall furnish this information, which
15 form will be provided to the custodian by the Division of Adult Correction and Juvenile Justice."

16 **SECTION 8.(n)** G.S. 153A-218 reads as rewritten:

17 **"§ 153A-218. County confinement facilities.**

18 A county may establish, acquire, erect, repair, maintain, and operate local confinement
19 facilities and may for these purposes appropriate funds not otherwise limited as to use by law.
20 Subject to the holdover provisions in G.S. 7B-2204, no person under the age of 18 may be held
21 in a county confinement facility unless there is an agreement between the county confinement
22 facility and the Division of Adult Correction and Juvenile Justice allowing the housing of persons
23 under the age of 18 at the facility or a portion of the facility, that has been approved as a juvenile
24 detention facility by the Juvenile Justice Section. A juvenile detention facility may be located in
25 the same facility as a county jail provided that the juvenile detention facility meets the
26 requirements of this Article and G.S. 147-33.40."

27 **SECTION 8.(o)** G.S. 162-60(b) reads as rewritten:

28 "(b) A prisoner who is convicted of a misdemeanor offense and housed in a local
29 confinement facility ~~and~~ or a person under the age of 18 convicted of a misdemeanor offense and
30 housed in a detention facility approved by the Juvenile Justice Section of the Division of Adult
31 Correction and Juvenile Justice, who faithfully participates in an adult high school equivalency
32 diploma program or in any other education, rehabilitation, or training program is entitled to a
33 reduction in the prisoner's sentence of four days for each 30 days of classes attended, up to the
34 maximum credit allowed under G.S. 15A-1340.20(d)."

35 **SECTION 8.(p)** This section becomes effective July 1, 2020, and applies to offenses
36 committed, sentences imposed, and any other orders of imprisonment issued on or after that date.

37
38 **PART III. STATEWIDE MISDEMEANOR CONFINEMENT PROGRAM TRANSFERS**
39 **FOR MEDICAL TREATMENT.**

40 **SECTION 9.(a)** G.S. 148-19.3 reads as rewritten:

41 **"§ 148-19.3. Health care services to county prisoners.**

42 (a) All charges that are the responsibility of the transferring county for health care
43 services provided to prisoners held under a safekeeping order pursuant to ~~G.S. 162-39~~

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1 G.S. 162-39, or the Statewide Misdemeanor Confinement Program pursuant to G.S. 148-32.1,
2 shall not be paid by the Department and shall be submitted by the health care provider to the
3 Inmate Medical Costs Management Plan through the North Carolina Sheriffs' Association for the
4 Plan to review and negotiate all charges for health care services to avoid overpayment and reduce
5 overall health care service costs. The Department shall notify the health care provider when
6 services are being provided to the prisoner that the invoice for health care services shall be
7 submitted by the provider directly to the Plan. In the event an invoice is sent to the Department
8 by a health care provider for health care services provided to a safekeeper under this ~~section,~~
9 section or G.S. 148-32.1, the Department shall forward the invoice to the Plan within three days
10 of receipt. All unreimbursed charges for health care services provided shall be documented and
11 presented to the county for payment in accordance with ~~G.S. 162-39.~~ G.S. 162-39 or the
12 Statewide Misdemeanor Confinement Program in accordance with G.S. 148-32.1. Upon
13 expiration of the terms of the order and a determination that the prisoner may be safely returned
14 to the custody of the county, the Department shall notify the sheriff, or the sheriff's designee, by
15 telephone and electronic mail and request the transfer of the prisoner to the custody of the county.

16 (b) The Department shall update the medical services schedule of charges assessed to
17 counties for the provision of health care services to county prisoners housed in the State prison
18 system pursuant to safekeeping orders under ~~G.S. 162-39.~~ G.S. 162-39 or the Statewide
19 Misdemeanor Confinement Program under G.S. 148-32.1. In updating the schedule of charges,
20 at a minimum, the Department shall consider the actual rate for services provided and current
21 established Medicaid rates for respective services. The schedule of charges shall be updated
22 annually and shall be included in the Department's policies and procedures. The Department shall
23 assess charges to counties for health care services provided to county prisoners at all State prison
24 facilities."

25 **SECTION 9.(b)** G.S. 148-32.1(b3) reads as rewritten:

26 "(b3) The custodian of a local confinement facility may request a judicial order to transfer
27 a misdemeanant housed pursuant to the Statewide Misdemeanant Confinement Program to a
28 facility operated by the Division of Adult Correction and Juvenile Justice by certifying in writing
29 to the clerk of the superior court in the county in which the local confinement facility is located
30 ~~that that one of the following conditions is met:~~

31 (1) The misdemeanant poses a security risk because the misdemeanant:

- 32 a. Poses a serious escape ~~risk,~~risk.
- 33 b. Exhibits violently aggressive behavior that cannot be contained and
34 warrants a higher level of ~~supervision;~~supervision.
- 35 c. Needs to be protected from other inmates, and the county jail facility
36 cannot provide such ~~protection;~~protection.
- 37 d. Is a female or a person 18 years of age or younger, and the county jail
38 facility does not have adequate housing for such ~~prisoners;~~prisoners.
- 39 e. Is in custody at a time when a fire or other catastrophic event has
40 caused the county jail facility to cease or curtail ~~operations;~~
41 operations.
- 42 f. Otherwise poses an imminent danger to the staff of the county jail
43 facility or to other prisoners in the facility.

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1 (2) The misdemeanor requires medical or mental health treatment that the county
2 decides can best be provided by the Division of Adult Correction and Juvenile
3 Justice.

4 (3) The local confinement facility that would be required to house the prisoner (i)
5 cannot reasonably accommodate any more prisoners due to segregation
6 requirements for particular prisoners, or the local facility does not meet the
7 minimum standards published pursuant to G.S. 153A-221, and (ii) no other
8 local confinement facility is available.

9 Upon receiving such request and certification in writing, any superior or district court judge
10 for the district in which the local confinement facility is located may, after ascertaining that the
11 request meets the criteria set forth in subdivision (1), (2), or (3) of this subsection, order the
12 misdemeanant transferred to a unit of the State prison system designated by the Secretary of
13 Public Safety or the Secretary's authorized representative. Individuals meeting the condition set
14 forth in subdivision (2) of this subsection may be ordered to be transferred for an initial period
15 not to exceed 30 days. The sheriff of the county from which the prisoner is removed shall be
16 responsible for conveying the prisoner to the prison unit where the prisoner is to be held, and for
17 returning the prisoner to the jail of the county from which the prisoner was transferred. The
18 officer in charge of the prison unit designated by the Secretary of Public Safety shall receive
19 custody of the prisoner in accordance with the terms of the order. Prior to the conclusion of the
20 30-day period, the Division of Adult Correction and Juvenile Justice shall conduct an assessment
21 of treatment and venue needs. The assessment shall be conducted by the attending medical or
22 mental health professional and shall assess the medical and mental health needs of the prisoner
23 and make a recommendation on whether the prisoner should remain in the custody of the Division
24 of Adult Correction and Juvenile Justice of the Department of Public Safety or if the prisoner
25 should be returned to the custody of the county. To extend the order beyond the initial 30-day
26 period, the sheriff shall provide the Division of Adult Correction and Juvenile Justice assessment
27 and any other relevant information to the resident judge or the superior court or any judge holding
28 superior court in the district or any district court judge who shall determine whether to extend
29 the transfer of the prisoner to a unit of the State prison system beyond the initial 30-day period.
30 If the judge determines that the prisoner should remain in the custody of the Division of Adult
31 Correction and Juvenile Justice, the judge shall renew the order and include a date certain for
32 review by the court. Prior to the date of review, the Division shall conduct a reassessment of
33 treatment and venue needs and the sheriff shall provide the reassessment and any other relevant
34 information to the court, as described in this subsection. If the judge determines that the prisoner
35 should not remain in the custody of the Division of Adult Correction and Juvenile Justice, the
36 officer in charge of the prison unit designated by the Secretary of Public Safety shall release
37 custody of the prisoner in accordance with the court order and the instructions of the attending
38 medical or mental health professional. The Division of Adult Correction and Juvenile Justice
39 shall be reimbursed from the Statewide Misdemeanant Confinement Fund for the costs of
40 housing the misdemeanorant, including the care, supervision, and transportation of the
41 misdemeanant."

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1 **SECTION 9.(c)** This section becomes effective July 1, 2020, and applies to all
2 prisoners transferred on or after that date. The remainder of this act is effective when it becomes
3 law.

4 **PART IV. INCREASING CRIMINAL COURT APPOINTED COUNSEL FEE AND**
5 **COURT COSTS FOR SUPPORT OF INDIGENT DEFENSE SERVICES AND**
6 **CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION.**

7
8 **INCREASING APPOINTED COUNSEL FEE AND COURT COSTS**

9 **SECTION 10.1.(a)** G.S. 7A-455.1 reads as rewritten:

10 **"§ 7A-455.1. Appointment fee in criminal cases.**

11 (a) In every criminal case in which counsel is appointed at the trial level, the judge shall
12 order the defendant to pay to the clerk of court an appointment fee of ~~sixty dollars~~
13 ~~(\$60.00)~~ seventy-five dollars (\$75.00). No fee shall be due unless the person is convicted.

14 (b) The mandatory ~~sixty dollar (\$60.00)~~ seventy-five dollar (\$75.00) fee may not be
15 remitted or revoked by the court and shall be added to any amounts the court determines to be
16 owed for the value of legal services rendered to the defendant and shall be collected in the same
17 manner as attorneys' fees are collected for such representation.

18 (c) Repealed by Session Laws 2005-250 s. 3, effective August 4, 2005.

19 (d) Inability, failure, or refusal to pay the appointment fee shall not be grounds for
20 denying appointment of counsel, for withdrawal of counsel, or for contempt.

21 (e) The appointment fee required by this section shall be assessed only once for each
22 attorney appointment, regardless of the number of cases to which the attorney was assigned. An
23 additional appointment fee shall not be assessed if the charges for which an attorney was
24 appointed were reassigned to a different attorney.

25 (f) Of each appointment fee collected under this section, the sum of ~~fifty-five dollars~~
26 ~~(\$55.00)~~ seventy dollars (\$70.00) shall be credited to the Indigent Persons' Attorney Fee Fund
27 and the sum of five dollars (\$5.00) shall be credited to the Court Information Technology Fund
28 under G.S. 7A-343.2. These fees shall not revert.

29 (g) The Office of Indigent Defense Services shall adopt rules and develop forms to
30 govern implementation of this section."

31 **SECTION 10.1.(b)** G.S. 7A-304(a) reads as rewritten:

32 "(a) In every criminal case in the superior or district court, wherein the defendant is
33 convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the
34 prosecuting witness, the following costs shall be assessed and collected. No costs may be
35 assessed when a case is dismissed. Only upon entry of a written order, supported by findings of
36 fact and conclusions of law, determining that there is just cause, the court may (i) waive costs
37 assessed under this section or (ii) waive or reduce costs assessed under subdivision (7), (8), (8a),
38 (11), (12), or (13) of this section. No court may waive or remit all or part of any court fines or
39 costs without providing notice and opportunity to be heard by all government entities directly
40 affected. The court shall provide notice to the government entities directly affected of (i) the date
41 and time of the hearing and (ii) the right to be heard and make an objection to the remission or
42 waiver of all or part of the order of court costs at least 15 days prior to hearing. Notice shall be

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made to the government entities affected by first-class mail to the address provided for receipt of court costs paid pursuant to the order. The costs referenced in this subsection are listed below:

...

(3b) For the services, staffing, and operations of the Criminal Justice Education and Training Standards Commission, the sum of ~~two~~ three dollars ~~(\$2.00)~~ (\$3.00) to be remitted to the Department of Justice.

(3c) For legal representation to indigent defendants and others entitled to counsel under North Carolina law, the sum of two dollars (\$2.00) to be remitted to the Office of Indigent Defense Services.

...."

SECTION 10.1.(c) The Office of Indigent Defense Services and the Administrative Office of the Courts shall update all appointed counsel fee application forms in order to provide space for the itemization of time spent on appointed cases.

SECTION 10.1.(d) The Office of Indigent Defense Services shall report to the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety by March 1, 2021, regarding the implementation of rate increases to the Private Assigned Counsel Fund and modifications to appointed counsel fee application forms.

SECTION 10.1.(e) Receipts collected as a result of the court cost increase in subsection (a) of this section related to the Criminal Justice Education and Training Standards Commission are appropriated to the Criminal Justice Education and Training Standards Commission in the 2020-2021 fiscal year and requirements are increased accordingly.

SECTION 10.1.(f) Receipts collected as a result of the court cost increase in subsection (a) of this section related to Indigent Defense Services are appropriated to Indigent Defense Services in the 2020-2021 fiscal year and requirements are increased accordingly.

SECTION 10.1.(g) Subsections (a) and (b) of this section become effective December 1, 2020, and apply to costs assessed on or after that date. Subsection (c) of this section becomes effective December 1, 2020, and applies to all appointed counsel fee application forms submitted on or after that date. The remainder of this section is effective when it becomes law.

PART V. RADIOLOGICAL EMERGENCY PLANNING

FEE DEADLINE AND FEE MINIMUM MODIFICATIONS

SECTION 11.1.(a) G.S. 166A-29 reads as rewritten:

"§ 166A-29. Emergency planning; charge.

(a) Every person, firm, corporation or municipality who is licensed to construct or who is operating a fixed nuclear facility for the production of electricity shall pay to the Department of Public Safety an annual fee of at least thirty thousand dollars (\$30,000) for each fixed nuclear facility which is located within this State or has a Plume Exposure Pathway Emergency Planning Zone of which any part is located within this State. This fee is to be applied to the costs of planning and implementing emergency response activities as are required by the Federal Emergency Management Agency for the operation of nuclear facilities. Said fee is to be paid ~~no later than July 31 of each year, on a schedule set by the Department of Public Safety.~~ This minimum fee may be increased from time to time as the costs of such planning and

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1 implementation increase. Such increases shall be by agreement between the State and the
2 licensees or operators of the fixed nuclear facilities.

3 (b) Every person, firm, corporation or municipality who is licensed to construct or who
4 is operating a fixed nuclear facility for the production of electricity shall pay to the Department
5 of Public Safety, for the use of the Radiation Protection Section of the Division of ~~Public Health~~
6 Health Service Regulation of the Department of Health and Human Services, an annual fee of at
7 least thirty-six thousand dollars (\$36,000), ~~(\$36,000)~~, not to exceed the cost of the service
8 provided, for each fixed nuclear facility that is located within this State or that has a Plume
9 Exposure Pathway Emergency Planning Zone any part of which is located within this State. This
10 fee shall be applied only to the costs of planning and implementing emergency response activities
11 as required by the Federal Emergency Management Agency for the operation of nuclear facilities.
12 This fee is to be paid ~~no later than July 31 of each year~~ on a schedule set by the Department of
13 Public Safety.

14"

15 **SECTION 11.1.(b)** This section becomes effective July 1, 2020, and applies to fees
16 assessed on or after that date.

17
18 **PART IV. GENERAL EFFECTIVE DATE**

19
20 **EFFECTIVE DATE**

21 **SECTION 12.1.** Except as otherwise provided, this act is effective when it becomes
22 law.

23
24
25

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____